

106TH CONGRESS
2D SESSION

H. R. 4860

To provide for reports to Congress about proliferation by North Korea of weapons of mass destruction and missiles to deliver such weapons, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2000

Mr. GILMAN (for himself, Mr. MARKEY, Mr. KNOLLENBERG, and Mr. PALLONE) introduced the following bill; which was referred to the Committee on International Relations

A BILL

To provide for reports to Congress about proliferation by North Korea of weapons of mass destruction and missiles to deliver such weapons, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION. 1. SHORT TITLE.**

4 This Act may be cited as the “North Korea Non-
5 proliferation Act of 2000”.

6 **SEC. 2. REPORTS ON PROLIFERATION BY NORTH KOREA.**

7 (a) REPORTS ON COMPLIANCE BY NORTH KOREA
8 WITH MISSILE COMMITMENTS.—The President shall, at
9 the times specified in subsection (c), submit a report—

1 (1) stating whether there is credible informa-
2 tion that North Korea, on or after the date of the
3 enactment of this Act, took an action inconsistent
4 with its obligations under—

5 (A) the agreement between North Korea
6 and the United States of September 12, 1999,
7 to suspend launches of long-range missiles; or

8 (B) any other international agreement in
9 which North Korea agreed to limit its testing,
10 deployment, or transfer to other countries of
11 missiles or missile technology; and

12 (2) if there is such credible information, de-
13 scribing the nature of that information and of the
14 action or actions taken by North Korea.

15 (b) REPORTS ON PROLIFERATION BY NORTH
16 KOREA.—The President shall, at the times specified in
17 subsection (c), submit a report describing each instance
18 in which there is credible information indicating that
19 North Korea, on or after the date of the enactment of
20 this Act, transferred to a destination outside of North
21 Korea—

22 (1) goods, services, or technology listed on—

23 (A) the Nuclear Suppliers Group Guide-
24 lines for the Export of Nuclear Material, Equip-
25 ment and Technology (published by the Inter-

1 national Atomic Energy Agency as Information
2 Circular INFCIRC/254/Rev.3/Part 1, and sub-
3 sequent revisions) and Guidelines for Transfers
4 of Nuclear-Related Dual-Use Equipment, Mate-
5 rial, and Related Technology (published by the
6 International Atomic Energy Agency as Infor-
7 mation Circular INFCIRC/254/Rev.3/Part 2,
8 and subsequent revisions);

9 (B) the Missile Technology Control Regime
10 Equipment and Technology Annex of June 11,
11 1996, and subsequent revisions;

12 (C) the lists of items and substances relat-
13 ing to biological and chemical weapons the ex-
14 port of which is controlled by the Australia
15 Group;

16 (D) the Schedule One or Schedule Two list
17 of toxic chemicals and precursors the export of
18 which is controlled pursuant to the Convention
19 on the Prohibition of the Development, Produc-
20 tion, Stockpiling and Use of Chemical Weapons
21 and on Their Destruction; or

22 (E) the Wassenaar Arrangement list of
23 Dual Use Goods and Technologies and Muni-
24 tions of July 12, 1996, and subsequent revi-
25 sions; or

(d) SUBMISSION IN CLASSIFIED FORM.—When the President considers it appropriate, reports under subsections (a) and (b), or appropriate parts thereof, may be submitted in classified form.

(a) **AUTHORITY.**—Subject to sections 4, 5, and 6, any time that a report submitted under section 2(b) indicates that there is credible information that, on or after the date of the enactment of this Act, North Korea transferred to a destination outside of North Korea goods, services, or technology described in section 2(b)(1) or 2(b)(2), the

1 President is authorized to reinstate any or all of the re-
2 strictions on commerce with North Korea described in
3 subsection (b), to the degree such restrictions are not al-
4 ready in effect, for such period of time as the President
5 may determine.

6 (b) RESTRICTIONS TO BE REINSTATED.—The re-
7 strictions on commerce referred to in subsection (a) are
8 all restrictions on trade and other transactions with North
9 Korea that were in effect on the day before September
10 12, 1999, under the Trading With the Enemy Act, the
11 Defense Production Act of 1950, and the Export Adminis-
12 tration Regulations of the Department of Commerce,
13 other than those restrictions on imports into the United
14 States.

15 (c) EFFECTIVE DATE.—Restrictions on commerce re-
16 instated under subsection (a) shall be effective on such
17 date as the President may determine.

18 (d) PUBLICATION IN FEDERAL REGISTER.—The
19 President shall publish in the Federal Register notice of
20 restrictions on commerce reinstated under subsection (a).

21 **SEC. 4. PROCEDURES IF RESTRICTIONS ON COMMERCE**
22 **ARE NOT REINSTATED.**

23 (a) REQUIREMENT TO NOTIFY CONGRESS.—Should
24 the President not exercise the authority of section 3(a)
25 to reinstate all of the restrictions not already in effect on

1 commerce with North Korea described in section 3(b) fol-
2 lowing the submission of a report under section 2(b) indi-
3 cating that there is credible information that, on or after
4 the date of the enactment of this Act, North Korea trans-
5 ferred to a destination outside of North Korea goods, serv-
6 ices, or technology described in section 2(b)(1) or 2(b)(2),
7 the President shall so notify the relevant committees of
8 Congress within 30 days after submitting the report under
9 section 2(b).

10 (b) WRITTEN JUSTIFICATION.—Any notification sub-
11 mitted by the President under subsection (a) shall include
12 a written justification describing in detail the facts and
13 circumstances relating specifically to the transfer or trans-
14 fers described in the corresponding report submitted under
15 section 2(b) that support the President’s decision not to
16 exercise the authority of section 3(a) to reinstate the re-
17 strictions on commerce with North Korea described in sec-
18 tion 3(b).

19 (c) SUBMISSION IN CLASSIFIED FORM.—When the
20 President considers it appropriate, the notification of the
21 President under subsection (a), and the written justifica-
22 tion under subsection (b), or appropriate parts thereof,
23 may be submitted in classified form.

24 (d) EXCEPTION.—This section shall not apply in any
25 case governed by section 5.

1 **SEC. 5. REQUIREMENT IN CERTAIN CASES TO REINSTATE**
2 **RESTRICTIONS ON COMMERCE WITH NORTH**
3 **KOREA.**

4 (a) REQUIREMENT TO REINSTATE RESTRICTIONS.—
5 Notwithstanding section 3, and subject to section 6, the
6 President shall reinstate all of the restrictions on com-
7 merce with North Korea described in section 3(b), to the
8 degree such restrictions are not already in effect, following
9 the submission of a report by the President—

10 (1) under section 2(a) indicating there is cred-
11 ible information that North Korea, on or after the
12 date of the enactment of this Act, took an action in-
13 consistent with its obligations under—

14 (A) the agreement between North Korea
15 and the United States of September 12, 1999,
16 to suspend launches of long-range missiles; or

17 (B) any other international agreement in
18 which North Korea agreed to limit its testing,
19 deployment, or transfer to other countries of
20 missiles or missile technology; or

21 (2) under section 2(b) indicating that there is
22 credible information that, on or after the date of the
23 enactment of this Act, North Korea transferred
24 goods, services, or technology described in section
25 2(b)(1) or 2(b)(2) to any country described in sub-
26 section (b).

1 (b) COUNTRIES REFERRED TO IN SUBSECTION
2 (a)(2).—A country referred to subsection (a)(2) is any
3 country the government of which—

4 (1) has been determined by the Secretary of
5 State pursuant to section 6(j) of the Export Admin-
6 istration Act of 1979, section 620A(a) of the For-
7 eign Assistance Act of 1961, or section 40(d) of the
8 Arms Export Control Act, to have repeatedly pro-
9 vided support for acts of international terrorism; or
10 (2) has tested any long-range missile incor-
11 porating goods or technology knowingly transferred
12 to such government by North Korea.

13 (c) EFFECTIVE DATE.—Restrictions on commerce
14 with North Korea reinstated under subsection (a) fol-
15 lowing submission of a report under section 2(a) or 2(b)
16 shall take effect not later than 10 days after the President
17 submits the report.

18 (d) DURATION OF REINSTATED RESTRICTIONS.—Re-
19 strictions on commerce with North Korea reinstated under
20 subsection (a) shall remain in effect for a period of not
21 less than 2 years beginning on the effective date of the
22 restrictions, unless the requirements of this section are
23 waived pursuant to section 7.

1 (e) PUBLICATION IN FEDERAL REGISTER.—The
2 President shall publish in the Federal Register notice of
3 restrictions on commerce reinstated under subsection (a).

4 (f) CONSTRUCTION.—Subsection (a) shall not be con-
5 strued to require any action by the President if all the
6 restrictions on commerce with North Korea described in
7 section 3(b) are already in effect on the date that is 10
8 days after the submission of a report described in sub-
9 section (a), except that all such restrictions shall remain
10 in effect for a period of not less than 2 years beginning
11 on such date, unless the requirements of this section are
12 waived pursuant to section 7.

13 **SEC. 6. EXCEPTION FOR CASES IN WHICH NORTH KOREA**
14 **DID NOT KNOWINGLY ACT.**

15 (a) IN GENERAL.—Sections 3, 4, and 5 shall not
16 apply with respect to any action by North Korea described
17 in a report submitted under section 2(a) or 2(b) if the
18 President reports to the relevant committees of Congress
19 that the President has determined that there is substantial
20 doubt that North Korea knowingly took that action.

21 (b) SUBMISSION IN CLASSIFIED FORM.—When the
22 President considers it appropriate, the determination and
23 report of the President under subsection (a), or appro-
24 priate parts thereof, may be submitted in classified form.

1 **SEC. 7. NATIONAL INTEREST WAIVER.**

2 (a) **AUTHORITY TO WAIVE.**—The President may
3 waive the requirement of section 5 to reinstate or maintain
4 in effect restrictions on commerce with North Korea if,
5 in accordance with subsection (b), the President reports
6 to the relevant committees of Congress that the President
7 has determined that such waiver is important to the na-
8 tional security interests of the United States.

9 (b) **CONSULTATION WITH CONGRESS.**—The author-
10 ity of subsection (a) may be only be exercised if—

11 (1) at any time after the effective date pre-
12 scribed by section 5(b), the President informs the
13 relevant committees of Congress in writing of the
14 President’s intention to exercise that authority;

15 (2) the President provides the relevant commit-
16 tees of Congress a written justification for the pro-
17 posed exercise of that authority; and

18 (3) Before exercising that authority, the Presi-
19 dent consults with the relevant committees of Con-
20 gress regarding the proposed exercise of that author-
21 ity for a period of 30 days beginning on the date
22 that the President informs the relevant committees
23 of Congress under paragraph (1) of the President’s
24 intention to exercise the authority.

1 **SEC. 8. AUTHORITIES OF THE PRESIDENT IF NORTH KOREA**
2 **ENTERS A BINDING INTERNATIONAL AGREE-**
3 **MENT REGARDING MISSILE PROLIFERATION.**

4 (a) STATEMENT OF POLICY.—The Congress encour-
5 ages the President to seek to negotiate a binding inter-
6 national agreement with North Korea that satisfies United
7 States concerns regarding the transfer by North Korea to
8 other countries of missiles and missile technology.

9 (b) AUTHORITIES OF THE PRESIDENT.—If the Presi-
10 dent determines and reports to the relevant committees
11 of Congress that North Korea has entered into a binding
12 international agreement that satisfies United States con-
13 cerns regarding the transfer by North Korea to other
14 countries of missiles and missile technology, the President
15 is authorized to—

16 (1) use funds made available by appropriation
17 Act enacted after the date of the enactment of this
18 Act for the “Nonproliferation, Anti-terrorism,
19 Demining and Related Programs” account to sup-
20 port the commercial launch in the United States or
21 other countries of satellites for North Korea (other
22 than a launch by North Korea or by an entity that
23 has made a transfer that is reportable under section
24 2(a) of the Iran Nonproliferation Act of 2000 (Pub-
25 lic Law 106–178), and has not been subject to a de-
26 termination pursuant to section 5 of such Act); and

1 (2) waive sanctions that, as of the date of the
2 enactment of this Act, are in effect on North Korea
3 (including any entities in North Korea) pursuant to
4 section 73 of the Arms Export Control Act and sec-
5 tion 11B(b) of the Export Administration Act of
6 1979.

7 (c) CONSTRUCTION.—The authority of subsection
8 (b)(2) is in addition to authorities available to the Presi-
9 dent under other provisions of law.

10 **SEC. 9. RELATIONSHIP TO STATE LAW.**

11 No provision of this Act is intended to preempt the
12 law of any State or local government relating to North
13 Korea, to the extent that such law is more restrictive than
14 Federal law regarding commerce with North Korea.

15 **SEC. 10. DEFINITIONS.**

16 In this Act:

17 (1) LONG-RANGE MISSILE.—The term “long-
18 range missile” means any missile with a range of
19 1,000 kilometers or more.

20 (2) NORTH KOREA.—The term “North Korea”
21 means the Democratic People’s Republic of North
22 Korea.

23 (3) RELEVANT COMMITTEES OF CONGRESS.—
24 The term “relevant committees of Congress” means
25 the Committee on International Relations of the

- 1 House of Representatives and the Committee on
- 2 Foreign Relations of the Senate.

